

Notice of Allowability

Application No.

10/620,705

Examiner

Helen Nguyen

Applicant(s)

NAKADA, MASATO

Art Unit

3736

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 2006/05/15.
2. ☒ The allowed claim(s) is/are 2-6,8-12 and 14-18.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

DETAILED ACTION

Allowable Subject Matter

1. **Claims 2-6, 8-12, 14-18** are allowed.
2. The following is an examiner's statement of reasons for allowance:
3. The prior art discloses a myoelectric change acquiring means, an extracellular fluid change acquiring means, and a muscle fatigue status determining means, such as anticipated by Cherry et al (US Pat No. 5701894) in the previous non-final rejection. However, the prior art does not further disclose, either alone or in combination, the myoelectric change acquiring means comprising of a first storage means and a myoelectric change computing means, along with the extracellular fluid change acquiring means comprising a biological impedance measuring means providing an alternating current to determine an extracellular fluid, a second storage means, and an extracellular fluid change computing means. Furthermore, the prior art is not found to disclose, either alone or in combination, the muscle fatigue status determining means determining a muscle fatigue status by comparing a myoelectric change acquired by the myoelectric change acquiring means with a reference value for determining whether the myoelectric change is a myoelectric change at a normal time or not so as to determine the presence or absence of muscle fatigue as the muscle fatigue status, comparing a change in extracellular fluid acquired by the extracellular fluid change acquiring means with a reference value for determining whether the change in extracellular fluid is a change in extracellular fluid at a normal time or not so as to determine the equilibrium state of the muscle fatigue as the muscle fatigue status, and comparing the change in extracellular

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fluid acquired by the extracellular fluid change acquiring means with a reference value for determining whether the change in extracellular fluid is larger or smaller than the change in extracellular fluid acquired last time so as to determine the progress of the muscle fatigue as the muscle fatigue status, along with the components comprising the myoelectric change acquiring means and the extracellular fluid change acquiring means.

4. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Helen Nguyen whose telephone number is 571-272-8340. The examiner can normally be reached on Monday - Friday, 8 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on 571-272-4726. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business

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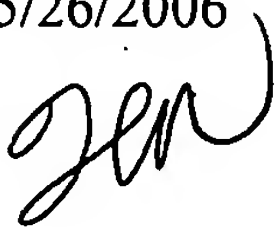
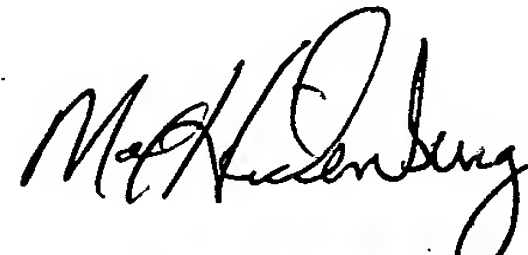
Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO

Customer Service Representative or access to the automated information system, call

800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HQN

5/26/2006

A handwritten signature in cursive script, appearing to be 'Jen' or similar, written in black ink.A handwritten signature in cursive script, appearing to be 'Max F. Hindenburg', written in black ink.

MAX F. HINDENBURG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700